XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(26)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

CRIMINAL REVISION NO.208/2006

Applicant
Revisioner
Accused

Vijay Kumar Pandey, S/o Mohanlal Pandey, aged 42 years, R/o Kasturba Nagar, Jarhabhata, Bilaspur C.G.

Vs

Respondent
Complainant No.1

1. Smt. Suman Dubey, W/o Ram Manohar Dubey, R/o Sarkanda, Tah. & Distt. Bilaspur (C.G.)
2. State of Chhattisgarh.

Present:

Mr. R.K. Sharma, Advocate for the applicant.

Mr. Vinay Pandey, Advocate for respondent No.1

Mr. N.K. Mehta, Panel Lawyer for the respondent No.2/State

O R A L O R D E R

(21st August, 2007)

Per Dhirendra Mishra, J:

This revision is directed against the judgment of conviction and order of sentence dated 31.1.2006 passed in Criminal Appeal No.51/05 whereby learned 9th Additional Sessions Judge (FTC), Bilaspur has dismissed the appeal preferred by the applicant against his conviction and sentence under Section 138 of the Negotiable Instruments Act, 1991 (for short 'the Act') by the Additional Chief Judicial Magistrate, Bilaspur vide judgment dated 30.4.2005 whereby the trial court has

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

convicted the applicant and imposed a penalty of Rs.75,000/- and in default of the payment of penalty to undergo R.I. for 3 months.

The grounds taken by the applicant in the memo of revision are that the ink used in the cheque is different, which shows that the cheque was undated at the time of issuance, as the cheque was given by the accused towards security of loan and not for transaction of loan. Service of mandatory notice under the Act has not been proved. Husband of the complainant has not been examined as witness though his name was mentioned in the list of witnesses.

Both the courts below after appreciating the documentary and oral evidence available on record have recorded the concurrent finding of fact that the cheque of Ex.P-1 was issued by the applicant/accused in favour of complainant Smt. Suman Dubey during the course of his business towards the discharge of debt and the same was presented before the bank of the applicant i.e. State Bank of Indore, Sarkanda Branch, Bilaspur, which was returned without payment with an endorsement that amount in the account of the applicant was not sufficient. After dishonour of the cheque vide Ex.P-3, the complainant vide notice of Ex.P-4 called upon the applicant to make the payment against the cheque issued by him, which was received by the appellant vide acknowledgement of Ex.P-6 and thereafter the complaint was

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मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

filed. All the documents have been duly proved by Suman Dubey (PW-1) and one G.C. Joshi (PW-2), Officer of the State Bank of Indore.

The courts below have recorded a concurrent finding of fact, the same is based on the proper appreciation of oral and documentary evidence available on record and there is no infirmity or illegality in the impugned order which calls for interference by this Court under revisional jurisdiction.

In the result, the revision being devoid of substance is liable to be dismissed and it is hereby dismissed.

Sd/-
DHIRENDRA MISHRA
Judge

GRPRJ — FS/246-- 2/2007 — 50,000.